

REMARKS

Claims 1-33 are now pending in the application. Minor non-narrowing amendments have been made to the claims to correct minor typographical errors. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

APPLICANT INITIATED INTERVIEW SUMMARY AND INTERVIEW REQUEST

Applicant thanks the Examiner for the brief interview granted on August 16, 2007 regarding this application. During the interview, the Examiner indicated that an interview would be granted, prior to the mailing of any further Office Action, to discuss the current amendments and the cited art in light of the concurrently filed Terminal Disclaimer. Also, the Examiner indicated the allowability of amended Claims 4, 12, and 19 once a Terminal Disclaimer has been approved.

CLAIM OBJECTIONS

Claims 1-22, 31 and 32 are objected to because of the following informalities: The Office submits that the use of the term "attachment device" is misleading since Applicant is referring to a hole.

Applicant has non-narrowingly amended Claims 1, 4, 8, 12, 13, 16, 19, 31, and 33 in a manner to overcome this objection. Applicant also submits that the application, as filed, provides support for the attachment device as a passage. Paragraph 90, for example, recites, "Each trial shell 400a – 400c includes an inner surface 402a – 402c having an attachment device or passage 404a – 404c thereon for accepting the trial

screw 212.” Although the attachment device need not be a passage or hole, Applicant submits that support for the attachment device being a passage is provided. Therefore, Applicant requests that the Examiner withdraw this objection.

DOUBLE PATENTING REJECTION

Claims 1-27 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 10-12, 14-16, 19-20, 24 and 33-40 of copending Application No. 10/201,485.

Although the present rejection is a provisional rejection, Applicant hereby submits a Terminal Disclaimer to obviate the double patenting rejection. Applicant requests, therefore, that this rejection be withdrawn.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-3, 5-11, 13-18 and 20-33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Besemer et al. (U.S. Pat. No. 5,879,401). This rejection is respectfully traversed.

Besemer et al. is directed to a trial system that allows determining a position of a prosthetic acetabular cup and positioning a reference screw 36 into the bone once an angle is set. The trial assembly is then removed for positioning a prosthetic acetabular cup. See Besemer et al. col. 4, Ins. 36-55.

Contrary to Besemer et al., Claim 1 recites “a plurality of attachment devices”. Applicant respectfully submits that Besemer et al. does not anticipate or render obvious

a plurality of attachment devices. Therefore, Claim 1, and each of the claims that depend therefrom, is in condition for allowance.

Contrary to Besemer et al., Claim 8 recites, “a first trial shell . . . a second trial . . . ; and an attachment member moveable between a locating position and a fastened position to selectively and alternatively interconnect each of said first and second trial shell to the acetabular prosthesis at said respective attachment device, each of said first and second trial shell moveable in one degree of freedom around an axis defined by said attachment member in said locating position”. Applicant respectfully submits that Besemer et al. does not anticipate or render obvious a first and second trial shell or an attachment member to selectively and operably interconnect either of said first and second trial shells, as recited in Claim 8. Therefore, Claim 8, and each of the claims that depend therefrom, is in condition for allowance.

Contrary to Besemer et al., the system or method recited in the independent Claims 16, 23, and 28 is directed to an implanted or implantable acetabular prosthesis. Therefore, Claims 16, 23, and 28, and each of the claims that depend from any of these claims, is in condition for allowance.

ALLOWABLE SUBJECT MATTER

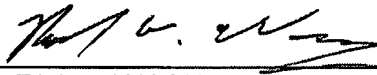
In light of the interview with the Examiner, as discussed above, Applicant has non-narrowingly amended Claims 4, 12, and 19 into independent form and each should be in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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